

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

WINFIELD GRAIN, INC., et al.,)	
Plaintiffs,)	
)	
v.)	No. 4:11CV2244 TIA
)	
MARQUETTE TRANSPORTATION CO., LLC,)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court on Defendant Marquette Transportation Co.'s Motion to Compel and for Negative Inference. (ECF No. 106) The parties consented to the jurisdiction of the undersigned pursuant to 28 U.S.C. § 636(c).

After the Court concluded the bench trial in this matter on October 11, 2013, Defendant filed a Motion to Compel and for Negative Inference indicating that Plaintiffs wrongfully withheld documents pertaining to flood insurance and disbursement of funds to Plaintiff Kevin James. The Defendant asks for a Court Order compelling the production of the missing documents and imposing a negative inference on those documents such that the appraisals indicate that the value of the facility is far below that claimed by the Plaintiffs and the condition of the facility prior to the allisions was severely degraded, if not already a constructive loss.

The Court notes that, in its Memorandum and Order of September ____, 2014, it found the Winfield Grain facility was severely depreciated such that Plaintiffs were entitled only to the replacement cost minus depreciation for the damaged pile clusters and the value of the damaged property at the time of injury. (Memorandum and Order 17, ECF No.) Because the Order

essentially grants Defendant the relief it requests, the Court will deny Defendant's Motion to Compel and for Negative Inference as moot.

Accordingly,

IT IS HEREBY ORDERED that Defendant Marquette Transportation Co.'s Motion to Compel and for Negative Inference (ECF No. 106) is **DENIED** as **MOOT**.

/s/ Terry I. Adelman
UNITED STATES MAGISTRATE JUDGE

Dated this 24th day of September, 2014.